

# Exhibit 12

# How PBMs make the drug price problem worse

BY DAVID BALTO, CONTRIBUTOR - 08/31/16 5:51 PM ET

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Recent price increases on the lifesaving allergy drug EpiPen have spawned a conversation about how drug pricing works in this country. Unfortunately the focus on this one product by a one-note media and headline chasing polls has obscured a far bigger issue — the corrosive role of Pharmacy Benefit Managers (PBMs) who oversee drug prescription plans in driving up consumer prices.

Mylan, the manufacturer of EpiPen, for example, receives less than half the list price for an EpiPen 2-Pak. PBMs — who do not research, develop, create or manufacture any new treatments or drugs generally claim 40 to 50 percent of a medicine's list price via an obscure and complex system of mandatory rebates — not to be confused with “kickbacks,” “collusion” or other recognized improprieties.

On a \$600 EpiPen, the PBM is likely receiving close to \$300 on each prescription.

The role of the PBM is to aggregate drug purchasing power from payers (insurance companies, small businesses, and consumers) and supposedly negotiate the lowest price from drug manufacturers and the lowest dispensing fee from pharmacies.

Their revenue mainly comes from rebates paid by drug manufacturers in order to be carried on a PBM's system, creating perverse incentives toward PBMs dispensing more, not less, expensive drugs.

But instead of lowering costs, the largest PBMs, Express Scripts, CVS Caremark and Optum Rx, are incentivized to inflate drug prices. The higher the price, the higher the rebate — and walk away with a bigger slice of the pie.

{mosads}Large employers who have some negotiating power may claw back some of that money — that's the idea of aggregating drug plans through a PBM — but small employers and consumers can't.

Meanwhile local pharmacies, which are the front lines of delivering health care and are the most trusted and accessible health care providers see their margins cut to the bone. On EpiPen they might get 4 percent, or \$24, pennies compared to the PBM's profits, which can be to ten times greater. It's no wonder communities are seeing their local pharmacies disappear as PBMs rake in more and more of the available cash.

No other country has a private system of intermediaries to handle drug reimbursement in this way. And for good reason.

For a market to work effectively you need three things: choice, transparency and a lack of conflicts of interest. But on all three accounts the PBM market receives a failing grade.

## **Choice**

The PBM market is dominated by three mega-companies that capture over 70 percent of the market. New entry is extremely difficult due to the massive economies of scale enjoyed by these giants and their ability to demand unreasonably favorable "discounts" from manufacturers unavailable to upstarts and new players.

## **Transparency**

A large portion of PBM profits are derived from rebates they receive from drug manufacturers, but don't pass on to their consumers. How big is the difference? Unfortunately, we don't know because the information has not been disclosed to the public.

PBMs fight tooth and nail to prevent anything that might exposure the true origins of their massive profits. Transparency is considered essential for other health care markets to work. Yet when state legislatures, the White House, consumer groups, unions and major employers have sought to secure transparency, the PBMs have objected; like the Wizard of Oz they cry out, "don't look behind the curtain!"

If there was transparency when prices increase employers could "follow the money" – they could figure out what rebates are being paid and who received them. Giving them that information would enable employers to bargain effectively and secure lower prices. That's the way markets are supposed to work.

## **Conflicts**

PBMs own and operate mail order and specialty pharmacies, but considering their purpose is to control drug dispensing costs, it's hard to believe the fox can guard the henhouse. In a PBM's perfect world, there would be no independent pharmacy and no local pharmacist advocating to make sure patients do not overpay for drugs.

Little choice, no transparency, conflicts of interest — so what's the result? Rapidly escalating profits for PBMs and high drug prices for the consumer. Since 2003 Express Scripts has seen its profit per prescription increased over 500 percent per adjusted script. Often PBMs are making more on prescriptions than the pharmacy, crushing small businesses and driving up health care costs across the board.

A system that rewards middle men over those who develop new treatments and manufacture real products makes no sense. It imposes unnecessary costs on the system and interferes with delivering the best health care for the lowest price.

When Congress looks at EpiPen or any other drug pricing crisis, it must look at the entire vertical supply chain. Transparency and choice at all levels of the supply chain are vital for consumers to be protected against escalating drug costs. It's time to make the PBM market work for consumers.

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